

Public Aircraft Operations

PAO 101 – The Basics

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By: Karen L. Petronis

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Federal Aviation
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Am I a Public Aircraft Operation?

Who can operate a public aircraft is defined by statute at 49 USC 40102 (a)(41)(A)-(E).

“Public Aircraft” means any of the following:

- (A) Except with respect to an aircraft described in subparagraph (E), an aircraft used only for the United States Government, except as provided in section 40125(b).
- (B) An aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development or demonstration, except as provided in 40125(b).
- (C) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in 40125(b).
- (D) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in 40125(b).
- (E) An aircraft owned or operated by the armed forces or chartered to provide transportation or other commercial air service to the armed forces under the conditions specified by 40125(c).

In the preceding sentence, the term “other commercial air service” means an aircraft operation that (i) is conducted within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public, and (iii) must comply with all applicable civil aircraft rules under Title 14 Code of Federal Regulations (14 CFR).



Who is eligible under (a)(41)?

The law allows public aircraft operations by:

- **Federal government**
- **State government or political subdivision**
- **District of Columbia or political subdivision**
- **Territory or possession of the United States or political subdivision**
- **Armed forces of the United States**



Except that...

Each of the government entities described in 40102(a)(41) (A)-(D) (all except U.S. armed forces) is subject to the phrase:

“Except as provided in section 40125(b)”

49 USC 40125 is the substantive portion of the public aircraft statute. Paragraph (b) contains the primary limitation:

An aircraft described in subparagraph (A), (B), (C), or (D) of section 40102(1)(41) does not qualify as a public aircraft under such section when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

The U.S. armed forces are subject to a similar limitation in 40125(c)(1)(B).

More Definitions

There are statutory definitions of the terms:

- **“commercial purposes” in 40125(a)(1) and of**
- **“qualified non-crewmember” in 40125(a)(3).**

The definition of qualified non-crewmember in turn uses the term “governmental function,” which is defined in 40125(a)(2). “Governmental function” includes a non-exclusive list of allowable government activities.

What do you get with PAO?

The law does not state what qualification as public aircraft affords a government entity.

Historically, public aircraft operation means you are not a civil aircraft subject to civil regulations in 14 CFR. This is how the definition of civil aircraft developed in 14 CFR 1.1 'aircraft other than a public aircraft,' which relies on the statutory definition of public aircraft to make the distinction.

Public aircraft operations (now known as PAO) are subject to the regulations applicable to all aircraft operating in the National Airspace System.

Keep in Mind:

- **Public aircraft status is statutory.** Although the FAA interprets the statute as part of Title 49, we cannot change it, we do not grant permission to operate, nor do we have the authority to adopt regulations for public aircraft operations.
- **Although the law defines ‘public aircraft,’ all of the terms of the law are operational (who is operating, who is on board, purpose of the operation).** As a result, the FAA refers to the topic as public aircraft operation (PAO).
- **The FAA does not give advisory opinions on PAO.** There are simply too many requirements that can cause a PAO to fall out of that status.
- **PAO determinations are made on a flight by flight basis, almost always after the fact.**

